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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,635	10/19/2001	Stewart Douglas Hutcheson	02-40282-US	1892

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
2683	5

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,635

Applicant(s)

HUTCHESON ET AL.

Examiner

Sharad Rampuria

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 16-31 is/are pending in the application.
- 4a) Of the above claim(s) 5-15 and 32-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 16-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I, claim(s) 1-4, 16-31 drawn to *billing*, classified in class 455, subclass 406.

Group II, claim(s) 5-15, 32-44, drawn to *capacity and geographic area*, classified in class 455, subclass 453.

Group III, claim(s) 45-50, drawn to *bundling in a common package*, classified in class 455, subclass 419.

Inventions of *billing* and *bundling in a common package* are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because of *billing* and *bundling in a common package*.

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Todd Norton (215-851-8859) on June 18th 2004 to request an oral election to the above restriction requirement, and an election being made for Group I.

Claim Objections

Applicant is advised that should claim 19 be found allowable, claim 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are **duplicates** or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 16-17, 19, 23-25, & 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow et al. in view of Marsh et al.

1. Regarding claim 1, Chow disclosed A method for providing flat-fee wireless communications services (abstract), said method comprising:
wherein said service area substantially coincides with a modeled geographic area indicative of anticipated participation of the at least one subscriber in at least one selected

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from the group consisting of living, working, playing, shopping and travelling. (home... free within that zone; pg.3; 0036 & 0033)

Chow fails to disclosed enabling, for said at least one subscriber, unlimited use of said wireless communications services within said service area for said period of time upon receipt of a corresponding payment of said given rate. However, Marsh teaches in an analogous art, that setting a given rate associated with a given period of time for said wireless communications services in a service area for at least one subscriber; (one rate; col.2; 8-22 & col.16; 53-64); enabling, for said at least one subscriber, unlimited use of said wireless communications services within said service area for said period of time upon receipt of a corresponding payment of said given rate; (one rate; col.2; 8-22 & col.16; 53-64) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include enabling, for said at least one subscriber, unlimited use of said wireless communications services within said service area for said period of time upon receipt of a corresponding payment of said given rate in order to provide an optimal wireless communication service plan.

2. Regarding claim 2, Chow disclosed The method of claim 1, wherein said at least one subscriber comprises a plurality of subscribers. (pg.3; 0036 & 0033)

3. Regarding Claim 3, Chow disclosed The method of claim 1, further comprising: identifying a plurality of land-line local calling areas corresponding to at least a portion of said service area; and, defining a wireless local calling area corresponding to said

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service area so as to include at least a portion of said identified land-line local calling areas. (pg.3; 0030).

4. Regarding Claim 4, Chow disclosed The method of claim 1, wherein said wireless communications services are substantially limited to within said service area. (pg.3; 0036 & 0033).

16. Regarding Claim 16, Chow disclosed A method for providing wireless communications services to a plurality of users using a corresponding plurality of mobile communications devices within a predetermined geographic area (abstract), said method comprising:

wherein at least a portion of costs associated with said providing said wireless communications services are substantially mitigated as the plurality of users are motivated to originate and receive wireless communications based at least in part upon said given price and said unlimited use. (home... free within that zone; pg.3; 0036 & 0033)

Chow fails to disclosed enabling unlimited use of said corresponding one of said mobile communications devices substantially only within said predetermined geographic area for a given temporal period. However, Marsh teaches in an analogous art, that setting a given price; (one rate; col.2; 8-22 & col.16; 53-64); in response to receiving a payment of said given price corresponding to one of said mobile communications devices, enabling unlimited use of said corresponding one of said mobile communications devices substantially only within said predetermined geographic area for

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a given temporal period; (one rate; col.2; 8-22 & col.16; 53-64) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include enabling unlimited use of said corresponding one of said mobile communications devices substantially only within said predetermined geographic area for a given temporal period in order to provide an optimal wireless communication service plan.

17. Regarding Claim 17, Chow disclosed The method of claim 16, wherein said wireless communications services consist of services within the geographic area. (pg.3; 0036 & 0033).

19. Regarding Claims 19-20, Chow disclosed The method of claim 16, wherein said wireless communications services consist of local calling. (pg.3; 0036 & 0033)

23. Regarding Claim 23, Chow disclosed The method of claim 16, further comprising defining additional geographic areas of services, and enabling said wireless communications services in at least one other of said additional geographic areas. (VNZ; pg.3; 0038)

24. Regarding Claim 24, Chow disclosed The method of claim 23, wherein said wireless communications services are substantially not available outside of said geographic area and at least one other geographic area. (pg.12; 0135)

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25. Regarding Claim 25, Chow disclosed The method of claim 16, wherein said wireless communications services are provided via transceivers each having a link budget designed primarily based upon system capacity. (pg.2; 0028)

28. Regarding Claim 28, Chow disclosed The method of claim 16, wherein said costs are increasingly mitigated as said originating wireless communications increase as compared to said incoming wireless communications. (pay may vary; pg.3; 0038)

29. Regarding Claim 29, Chow disclosed The method of claim 16, wherein said costs comprise at least one interconnect charge. (fixed rate; pg.3; 0031)

Claims 18, 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow et al. & Marsh et al. further in view of Dunn et al.

18. Regarding Claim 18, The above combination disclosed all the particulars of the claim except wherein said wireless communications services are not available outside of said geographic area using one of the plurality of mobile communications devices. However, Dunn teaches in an analogous art, that The method of claim 16, wherein said wireless communications services are not available outside of said geographic area using one of the plurality of mobile communications devices. (col.17; 13-24) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include wherein said wireless communications services are not available outside of said geographic area

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using one of the plurality of mobile communications devices in order to provide the billing charges and call restriction purposes.

30. Regarding Claim 30, The above combination disclosed all the particulars of the claim except mobile communications devices are CDMA compatible. However, Dunn teaches in an analogous art, that The method of claim 16, wherein said mobile communications devices are CDMA compatible. (col.11; 47-54) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include mobile communications devices are CDMA compatible in order to provide the different service providers.

31. Regarding Claim 31, The above combination disclosed all the particulars of the claim except mobile communications devices are CDMA compatible. However, Dunn teaches in an analogous art, that The method of claim 16, wherein said mobile communications use a multiple access system. (col.11; 47-54) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include mobile communications devices are CDMA compatible in order to provide the different service providers.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow et al. & Marsh et al. further in view of McConnell et al.

21. Regarding Claim 21, The above combination disclosed all the particulars of the claim except pre-paid long distance services. However, McConnell teaches in an analogous art, that The method of claim 16, wherein said wireless communications services further

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comprise at least one additional service selected from the group consisting of: voice mail services, and pre-paid long distance services. (col.18; table; 6-7) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include pre-paid long distance services in order to provide the facilitating robust account balance service such as prepaid calling.

22. Regarding Claim 22, The above combination disclosed all the particulars of the claim except pre-paid long distance services. However, McConnell teaches in an analogous art, that The method of claim 21, wherein said pre-paid long distance services are provided using voice-over-IP communications. (VOIP; col.22; 35-45) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include pre-paid long distance services in order to provide the facilitating robust account balance service such as prepaid calling.

Claim 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow et al. & Marsh et al. further in view of Joyce et al.

26. Regarding Claim 26, The above combination disclosed all the particulars of the claim except temporal period. However, Joyce teaches in an analogous art, that The method of claim 16, wherein said temporal period is recurring. (col.15; 2-13) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include temporal period in order to provide the enhanced communication service to individual user.

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27. Regarding Claim 27, The above combination disclosed all the particulars of the claim except temporal period. However, Joyce teaches in an analogous art, that The method of claim 26, further comprising, for a subsequent one of said recurring temporal periods, if said payment is not received, disabling unlimited use of said corresponding one of said mobile communications devices in said predetermined geographic area. (col.15; 2-13) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include temporal period in order to provide the enhanced communication service to individual user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is 703-308-4736. The examiner can normally be reached on Mon-Fri. (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Sharad Rampuria
June 28, 2004